

REMARKS

Summary of the Office Action

Claims 3-11 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,124,799 to *Parker* in view of U.S. Patent No. 6,577,857 to *Rodriguez*.

Summary of the Response to the Office Action

Applicants respectfully traverse all rejections under 35 U.S.C. § 103(a) as allegedly being unpatentable over *Parker* in view of *Rodriguez*.

Accordingly, claims 3-11 are presently pending for consideration.

All Claims Recite Allowable Subject Matter

Claims 3-11 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over *Parker* in view of *Rodriguez*. Applicants respectfully traverse the rejection for at least the following reasons.

The Office has not established a *prima facie* case of obviousness at least because *Parker* and *Rodriguez*, whether taken alone or in combination, fail to teach or suggest all the recited features of independent claim 9. As previously presented, independent claim 9 recites a method of unlocking a mobile telephone including, in part, the steps of “the user, through said mobile telephone, establishing a communication by using a calling number relating to the manufacturer” and “said mobile phone proceeding itself to unlocking using the received unlocking information.” *Parker* and *Rodriguez*, whether taken alone or in combination, fail to teach or suggest at least these features of claim 9.

The pending Office Action equates step 106 of *Parker*'s FIG. 4 with the claimed step of “establishing a communication by using a calling number relating to the manufacturer.”

Paragraph 3 at lines 8-12. FIG. 4 of *Parker* is directed to a method of activating a handset for use in a network. Col. 8, lines 15-19. Prior to its purchase, the handset 20 is locked such that only emergency and activation calls may be established. Col. 8, lines 19-21. In particular, a user inserts a SIM 40 into a handset 20 upon the purchase of the handset 20. Col. 8, lines 21-26. At step 106, the handset 20 sends subscriber identification information when transmitting the number dialed on the handset 20 to a mobile base station 50. Col. 8, lines 29-35. In the proceeding steps, the call is routed to the network's CSC 80 for activation. Col. 8, lines 40-52. *Parker* expressly provides that the CSC 80 is associated with the network operator (i.e., not a manufacturer). Abstract at lines 18-20. In contrast to *Parker*, claim 9 establishes a communication by using a calling number relating to the manufacturer (i.e., not the network).

The pending Office Action admits that *Parker* fails to teach "that the phone is locked to the manufacturer." Paragraph 3, line 27. To overcome this admitted deficiency in *Parker*, the Office Action relies upon the teachings of *Rodriguez*. In particular, the Office Action relies upon col. 2, lines 41-44 of *Rodriguez* which state "when a user exhausts a block of airtime, the user may contact the dealer or manufacturer of the portable communication unit to obtain a code that may be entered to activate an additional block of airtime." The Office Action then states that "[a]lthough in *Rodriguez* the unlocking information is used to activate additional airtime, the Examiner takes the position that *Rodriguez* teaches the sending of unlocking information by the manufacturer of a mobile device."

Assuming arguendo that the Examiner's position is correct, the cited portions of *Rodriguez* still do not remedy the deficiencies of *Parker*. Claim 9 recites a step in which "said mobile phone proceeding itself to unlocking using the received unlocking information." By contrast, *Rodriguez* discloses that the obtained code "may be entered" (i.e., by a user and not by

a phone). Col. 2, lines 41-44. As *Rodriguez* does not cure the deficiencies of *Parker*, the rejection of claim 9 should be withdrawn.

As pointed out in M.P.E.P. § 2143.03, all the claimed limitations must be taught or suggested by the prior art to establish *prima facie* obviousness of a claimed invention. Because *Parker* and *Rodriguez*, whether taken alone or in combination, fail to teach or suggest each feature of independent claim 9, the rejection under 35 U.S.C. § 103(a) should be withdrawn. Furthermore, claims 3-8, 10, and 11 depend from independent claims 9. Accordingly, claims 3-8, 10, and 11 are also allowable for at least the reasons stated above.

CONCLUSION

In view of the foregoing, Applicants respectfully request reconsideration and the timely allowance of the pending claims. Should the Examiner feel that there are any issues outstanding after consideration of the Response, the Examiner is invited to contact the Applicants' undersigned representative to expedite prosecution.

EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required,

including any required extension of time fees, or credit any overpayment to Deposit Account No.

50-0310. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR**

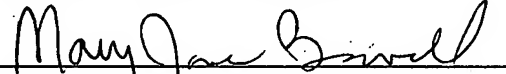
EXTENSION OF TIME in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,

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